

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR BIOLOGICAL DIVERSITY <i>et al.</i>)	
)	
Plaintiffs,)	
)	Case No. 1:17-cv-02002 (CRC)
v.)	
)	
SCOTT PRUITT,)	
in his official capacity as Administrator,)	
U.S. Environmental Protection Agency,)	
)	
Defendant.)	

ORDER

The Court, having read and considered Plaintiffs the Center for Biological Diversity, Center for Environmental Health, and Sierra Club’s Motion for summary judgment and all supporting documents and all opposition and reply briefing submitted thereto, and for good cause shown, **DECLARES** that, in his official capacity as Administrator of the United States Environmental Protection Agency (“EPA”), Defendant Scott Pruitt’s failure to promulgate federal implementation plans to take the place of the disapproved 42 U.S.C. § 7410(a)(2)(E)(ii) elements of the Mississippi, Alabama, and Illinois state implementation plan submittals within two years of the disapprovals—*i.e.* by April 1, 2017, May 4, 2017, and September 25, 2017, respectively—constitutes a failure to perform acts or duties under the Clean Air Act which are not discretionary with the Administrator, within the meaning of 42 U.S.C. § 7604(a)(2), in violation of the Clean Air Act.

It is hereby **ORDERED** that Plaintiffs the Center for Biological Diversity, Center for Environmental Health, and Sierra Club's Motion for summary judgment is **GRANTED**; it is further

ORDERED that EPA shall sign a final federal implementation plan that meets the requirements of Clean Air Act section 128(a)(1) to address the disapproved 42 U.S.C. § 7410(a)(2)(E)(ii) element of the Mississippi state implementation plan for the 2008 ozone NAAQS by April 1, 2019; it is further

ORDERED that EPA shall sign a final federal implementation plan that meets the requirements of Clean Air Act section 128(a)(1) and (2) to address the disapproved 42 U.S.C. § 7410(a)(2)(E)(ii) element of the Alabama state implementation plan for the 2008 ozone NAAQS by May 4, 2019; it is further

ORDERED that EPA shall sign a final federal implementation plan that meets the requirements of Clean Air Act section 128(a)(1) and (2) to address the disapproved 42 U.S.C. § 7410(a)(2)(E)(ii) element of the Illinois state implementation plans for the 2006 PM_{2.5} and 2008 ozone NAAQS by September 25, 2019; it is further

ORDERED that EPA shall, within fifteen business days of signature, send each final federal implementation plan to the Office of the Federal Register for review and publication; it is further

ORDERED that if EPA signs a notice of final rulemaking to fully approve a state implementation plan submission for Mississippi, Alabama, or Illinois which completely addresses the disapproved 42 U.S.C. § 7410(a)(2)(E)(ii) implementation plan provisions at issue in this case prior to signing a federal implementation plan, EPA's obligation to sign that final federal implementation plan is terminated; it is further

ORDERED that the deadline for Plaintiffs to file a motion for costs of litigation (including attorneys' fees) in this matter is ninety (90) days from the date of this Order. During this period, the Parties shall seek to resolve informally any claim for costs of litigation (including attorneys' fees), and if they cannot, Plaintiffs will file a motion for costs of litigation (including attorneys' fees) or a motion to extend the deadline to file such a motion; and it is further

ORDERED that the Court shall retain jurisdiction over this matter to ensure EPA's timely and sufficient compliance with the provisions of this Order.

SO ORDERED this 5th day of July, 2018

CHRISTOPHER R. COOPER
United States District Judge

NAMES AND ADDRESSES OF PERSONS TO BE SERVED

The following attorneys are registered to receive electronic notices and be served by this Court's ECF System in the above-captioned case, and are to be notified of entry of the foregoing order:

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